

COMMUNICATION 131131

Received From: Pascal Meunier, Director of Protective Services
Addressed To: Committee of the Whole
Date: November 10, 2020
Topic: Right of Entry By-law

SUMMARY

The proposed Right of Entry By-law offers transparency and accountability, which will continue to provide a fair and standardized approach to conducting by-law inspections in compliance with Section 436 of the Municipal Act.

BACKGROUND

For many years, the Carleton Place Municipal By-law Enforcement Officers (MLEO) have been enforcing the various by-laws in Town by following an inspection procedure similar to BL-001, which has been shared with Council.

In 2006, a provision was added to the Municipal Act which enables municipalities to allow By-law Enforcement Officers to enter land at any reasonable time for the purpose of carrying out an inspection, thereby allowing them to determine the status of the complaint in a timely manner. This must be passed by a Council through either a single, umbrella by-law, or through amending each relevant by-law to give the right of entry.

Through the process of reviewing existing by-laws, it was found that most of our by-laws did not meet the 2006 requirement of expressly giving our Enforcement Officers the right of entry. At the Committee of the Whole meeting on October 28, 2020, Council directed staff to bring forward a Right of Entry By-law which would apply to all by-laws which are enforced by MLEO.

The *Municipal Act* provides:

436. A municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) a by-law of the municipality passed under the Municipal Act;
- b) a direction or order of the municipality made under the Municipal Act or made under a by-law of the municipality passed pursuant to the Municipal Act;
- c) a condition of a licence issued under a by-law of the municipality passed under the Municipal Act;
- d) an order made under Section 431 of the Municipal Act;

Through protocols and procedures established in Carleton Place, we have and will continue to contact property owners before investigating. It is important to note that By-law Officers will not be using this new by-law to enter properties without reason. However, there are many reasons, including health and safety, that would require an Officer to take immediate action, including a dead branch falling on a neighbour's property or dangerous debris on a property, etc.

It is important to note that this power does not allow entry into any place being used as a dwelling. Dwellings may only be entered with a search warrant. Therefore, the proposed Right of Entry By-law would allow only for inspections outside of the dwelling.

COMMENT

This by-law offers a clear, transparent and consistent approach to by-law enforcement. It is important to keep in mind that by following inspection guideline #BL 001, it will take more time to get compliance and require more staff time to complete their inspections but it would meet the directive of Council to find a compromise solution. The Right of Entry By-law will give the Officers the tools to inspect and enter land to be able to do their job more effectively.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this By-law.

STAFF RECOMMENDATION

THAT Council approves the Right of Entry By-law.